

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JAMES WILLIAMS, JR.,

Case No. 2:20-cv-01241-RFB-VCF

Plaintiff

ORDER

v.

CORE CIVIC, *et al.*,

Defendants

This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a prisoner incarcerated at the Nevada Southern Detention Center (“NSDC”). On July 7, 2020, this Court issued an order denying the Plaintiff’s application to proceed *in forma pauperis*, without prejudice, because the application was incomplete. (ECF No. 3 at 2). The Court ordered Plaintiff to file a fully complete application to proceed *in forma pauperis* or pay the full filing fee of \$400 on or before September 4, 2020. (*Id.* at 2). The September 4, 2020 deadline has now expired, and Plaintiff has not filed another application to proceed *in forma pauperis*, paid the full filing fee, or otherwise responded to the Court’s order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming

1 dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of
 2 address); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal
 3 for failure to comply with court order); Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986)
 4 (affirming dismissal for lack of prosecution and failure to comply with local rules).

5 In determining whether to dismiss an action for lack of prosecution, failure to obey a court
 6 order, or failure to comply with local rules, the court must consider several factors: (1) the public's
 7 interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the
 8 risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their
 9 merits; and (5) the availability of less drastic alternatives. See Thompson, 782 F.2d at 831;
 10 Henderson, 779 F.2d at 1423-24; Malone, 833 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali,
 11 46 F.3d at 53.

12 Here, the Court finds that the first two factors, the public's interest in expeditiously
 13 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
 14 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of dismissal,
 15 since a presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
 16 ordered by the court or prosecuting an action. See Anderson v. Air West, 542 F.2d 522, 524 (9th
 17 Cir. 1976). The fourth factor—public policy favoring disposition of cases on their merits—is
 18 greatly outweighed by the factors in favor of dismissal discussed herein. Finally, a court's warning
 19 to a party that his failure to obey the court's order will result in dismissal satisfies the
 20 “consideration of alternatives” requirement. Ferdik, 963 F.2d at 1262; Malone, 833 F.2d at 132-
 21 33; Henderson, 779 F.2d at 1424.

22 The Court's order requiring Plaintiff to file another application to proceed *in forma*
 23 *pauperis* or pay the full filing fee on or before September 4, 2020 expressly stated: “IT IS
 24 FURTHER ORDERED that, if Plaintiff does not file a fully complete application to proceed *in*
 25 *forma pauperis* with all three documents or pay the full \$400 filing fee for a civil action on or
 26 before September 4, 2020, the Court will dismiss this action without prejudice for Plaintiff to refile
 27 the case with the Court, under a new case number, when Plaintiff has all three documents needed
 28 to file a complete application to proceed *in forma pauperis*.” Thus, Plaintiff had adequate warning

1 that dismissal would result from his noncompliance with the Court's order to file another
2 application to proceed *in forma pauperis* or pay the full filing fee on or before September 4, 2020.

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4 **IT IS THEREFORE ORDERED** that this action is dismissed without prejudice based on
5 Plaintiff's failure to file another application to proceed *in forma pauperis* or pay the full filing fee
6 in compliance with this Court's July 7, 2020 order.

7 **IT IS FURTHER ORDERED** that the Clerk of Court will close the case and enter
8 judgment accordingly. No other documents may be filed in this now-closed case.

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10 DATED: September 18, 2020

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13 **RICHARD F. BOULWARE, II**
14 **UNITED STATES DISTRICT JUDGE**
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